

**DOD/Navy Hotline Investigative Report**  
NIGHTS Case No. 201601280  
28 October 2016

**1. Administrative Information**

**a. Investigator(s) and Identifying Information:** (b) (6), MLC1-7, Command Inspector General, Naval Facilities Engineering Command (NAVFAC) Far East, PSC 473 BOX 13 FPO AP 96349-0013, (315)-243-5090, e-mail: (b) (6)

**b. Location of working papers.** Navy Inspector General Hotline Tracking System (NIGHTS) case file 201601280.

**2. Background and Summary**

**a. Hotline Control #s, Date of Receipt, and Origin of Complaint.** NIGHTS Case No. 201601280 – the Command Inspector General received a confidential hotline complaint on 29 April 2016.

**b. Summary of Complaint.** The complainant alleged that Public Works Department (PWD) Yokosuka employee, (b) (6) Construction Representative, Facilities Engineering and Acquisition Division (FEAD), Code PRY232, misused an official U.S. Government-Owned Vehicle (GOV) during work hours for personal purposes on a frequent basis. Additionally, (b) (6) Engineering Technician, Requirement Branch, Planning & Estimating Division, Code PRY111, on numerous occasions, left his workplace for personal purposes during official work hours.

**c. Additional Information.**

(1) A preliminary inquiry was conducted by NAVFAC Far East IG in May, to collect GOV usage information from Transportation Department. On 24 June 2016, Naval Inspector General (NAVINSGEN) granted approval for full investigation to be conducted into the allegations.

(2) During employees' interview, another allegation that (b) (6) had misused an official government cellphone was brought to the attention of the investigator. The allegation was added to the original investigation.

(3) The term "MLC", which stands for Master Labor Contract, represents the indirect hiring of Japanese national employees, and is used throughout the investigation report and interview statements. MLC employees are hired by the Japanese Government under the Master Labor Contract to support the U.S. Armed Forces Japan.

(4) An interview with (b) (6) the former Facility Support Contract Manager, was conducted on 7 July 2016. (b) (6) transferred from the command and departed Japan on 8 July 2016 before he could review and sign his statement; however, he signed a Privacy Act statement and a Truthful Testimony document before starting the interview. No forwarding contact information was provided by him to the investigator.

(5) (b) (6) the former FEAD Officer, left Yokosuka in June 2015. The investigator attempted to contact him; however, she was unsuccessful because the e-mail address for him was deactivated.

**3. List of Allegations.** Upon review of available information, I have established the following allegations:

(1) That (b) (6) misused an official U.S. Government-Owned Vehicle (GOV) during work hours for personal purposes, in violation of DOD 4500.36R Management, Acquisition, and Use of Motor Vehicles; and MLC, Chapter 8 – Conduct of Employees Section B: Rules of Conduct and Appendix X, 5. Misuse of Government Equipment.

(2) That (b) (6) on numerous occasions, misused his official time by leaving his office to conduct personal business during work hours, in violation of 5 C.F.R. 2635.705(a), Use of an employee's own time; and MLC, Chapter 8 – Conduct of Employees Section B: Rules of Conduct and Appendix X, 3. Tardiness or Leaving the Workplace Early.

(3) That (b) (6) misused an official government cellphone, in violation of 5 C.F.R. 2635.704, Use of Government Property; and Master Labor Contract, Chapter 8 - Conduct of Employees Section B: Rules of Conduct and Appendix X, 5. Misuse of Government Equipment.

(4) That (b) (6) on numerous occasions, misused his official time by leaving his office to conduct personal business during work hours, in violation of 5 C.F.R. 2635.705(a), Use of Official Time; and Master Labor Contract, Chapter 8 - Conduct of Employees Section B: Rules of Conduct and Appendix X, 3. Tardiness or Leaving the Workplace Early.

**4. First Allegation.** (b) (6) misused a GOV for personal purposes, in violation of DOD 4500.36R Management, Acquisition, and Use of Motor Vehicles and MLC, Chapter 8 – Conduct of Employees Section B: Rules of Conduct and Appendix X, 5. Misuse of Government Equipment. **Substantiated.**

**a. Facts**

(1) DOD 4500.36R Management, Acquisition, and Use of Motor Vehicles C2.5 Official Use of Vehicles states that the use of all DoD motor vehicles, including those leased with DoD funds, or from other Government Agencies or commercial sources shall be restricted to official purposes only.

(2) Master Labor Contract, Chapter 8 – Conduct of Employees states that employees are required to perform their assigned duties and discharge their delegated responsibilities conscientiously, to conduct themselves in a manner both on and off the job which will reflect credit on themselves. MLC Section B: Rules of Conduct, paragraph 12, Government Property, states that employees are expected to provide maximum protection to property issued for use in the performance of their duties and the use of such property is for officially authorized purposes only. This paragraph explicitly provides that the unauthorized use of government property is prohibited. MLC Appendix X, 5. Misuse of Government Equipment, states, in part, that use of government equipment improperly as outlined in manufacture's specifications, manufacture's instructions, headquarters or local orders or instructions is penalized by:

- (a) First offense: Official reprimand to Suspension
- (b) Second offense: Fine to Suspension
- (c) Third offense: Suspension to Removal

(3) PRY232, Performance Assessment Division has five (5) GOVs authorized for official use. A new log system was started in June 2016 which requires GOV users to document vehicle mileage, vehicle destination, the last 3 digits of GOV license plate and the expected return time. Prior to June 2016, employees checked out GOVs using a white board in the office.

(4) (b) (6) Supervisory Quality Control Representative, stated that mandatory monthly mileage reports on GOVs are submitted to the Transportation Department; four (4) by him and one (1) by (b) (6) Quality Control Representative.

(5) (b) (6) indicated that when he reviewed the monthly report for GOV number N9483885, a vehicle used by (b) (6) he noticed it had a much higher mileage than other vehicles.

(6) (b) (6) Quality Control Representative, stated that on or about 21 December 2015, he saw (b) (6) at an off-base bank (note for the record: (b) (6) took five (5) hours leave that day). (b) (6) said that he noticed a GOV parked on the road in front of the bank and witnessed (b) (6) drive off in it after leaving the bank.

(7) (b) (6) and (b) (6) Construction Representative, stated that (b) (6) often leaves the office in the morning, without notice, using a GOV and doesn't usually come back until 1630.

(8) (b) (6) Facility Management Facility Sustainment Branch Head, GS-12, has been in this position since August 2015. (b) (6) stated that he hasn't received any report of misuse of GOV in PRY232.

(9) (b) (6) Supervisory Engineering Technician, PRY111, stated that he recorded the dates (b) (6) departed the work place using a GOV. He also stated that his subordinate, (b) (6) Engineering Technician, accompanied (b) (6) on several occasions. (b) (6) submitted a memo to the investigator with the following dates and times he witnessed (b) (6) and (b) (6) leaving together:

9 March 2016 from 1530 to 1600  
10 March 2016 from 1000 to 1030  
11 March 2016 from 1530 to 1600  
12 April 2016 from 1500 to 1530  
14 April 2016 from 1500 to 1531  
21 April 2016 from 1500 to 1527  
26 April 2016 from 1000 to 1030

(10) (b) (6) is assigned to the Alternative Work Schedule (AWS). His work hours alternate every eight (8) days from 0700 to 1700 with one (1) hour lunch break and one (1) day from 0700 to 1545 with 45 minutes lunch break every other week. (b) (6) Regular Day Off is every other Monday.

(11) (b) (6) stated that he has been working as a Construction Representative for 27 years. (b) (6) stated that he drives a GOV every day. He explained that one of his responsibilities is make a frequent visit to worksites.

(12) (b) (6) stated that he helped his mother move to a new resident using a GOV, approximately two (2) km from Yokosuka base, during his official work hours in April 2016. He said that he knew what he was doing was not authorized.

(13) (b) (6) said that he and (b) (6) at Code PRY111 are good friends and they frequently take a break together around 1000 for approximately 10 to 15 minutes. (b) (6) also said that he drives a GOV from Bldg. 4364 to Bldg. A-20, the Japan Maritime Self-Defense Force, which is approximately 1km away, to use a vending machine.

(14) (b) (6) noted that he used a GOV to go to an off-base bank during work hours for personal business in October 2015 and April 2016.

(15) The below table shows PRY232 GOV monthly mileage (km) submitted to the investigator.

Main POC	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16
(b) (6) (truck, N9480550)	597	1280	1104	1435	960	545
(b) (6) (van, G410079J)	120	120	130	350	150	172
(b) (6) (minivan, N9479793)	45	46	47	43	48	43
(b) (6) (minivan, N9479794)	130	239	198	214	237	207
(b) (6) (minivan, N9483885)	655	439	531	892	410	502

- Main military facilities outside Yokosuka which PWD Yokosuka has contracts are Ikego, North Dock, Tsurumi Fuel Terminal, New Sanno, Camp Fuji and the distance from Yokosuka is 10.4km, 21.3km, 35.4km, 57.3km, 112.4km, respectively.

- (b) (6) transferred to Yokosuka in December 2015 due to the Naval Housing Annex Negishi's closure. He has been continuously in charge of all his contracts related to New Sanno, North Dock, etc. which require him to drive a long distance on a daily basis.

- The employees noted that it should not take an entire day to check their worksites. Although (b) (6) said that most of his contracts are on base contracts, his monthly driving distance is high compared to other GOVs in PRY232.

#### **b. Analysis/Discussion/Conclusion.**

(1) In DOD 4500.36R Management, Acquisition, and Use of Motor Vehicles, the use of a government vehicle should be restricted to official purposes only. As described above, (b) (6) violated this regulation by driving a GOV for personal purposes.

(2) The witness statements indicate that (b) (6) personal use of a GOV has been observed over a period of approximately 10 years.

(3) MLC, Chapter 8, Conduct of Employees, states in its Section B, paragraph 12 that MLC employees are required to use the government property for official purposes only and improper use can result in disciplinary action. (b) (6) use of a GOV for personal reasons violated the MLC.

(4) The allegation of (b) (6) misuse of GOV was corroborated by his own admission as well as witness statements. Based on this evidence, the allegation that (b) (6) improperly used a GOV for personal purpose is substantiated.

**c. Recommendations.**

(1) Take appropriate administrative action to hold (b) (6) accountable for his misuse of a GOV.

(2) Provide the employees assigned to PRY232 training on the proper use of GOVs.

**d. Disposition.** Forwarded to higher authority for appropriate administrative and/or corrective action.

**5. Second Allegation.** (b) (6) on numerous occasions, misused his official time by leaving his office to conduct personal business during work hours, in violation of 5 C.F.R. 2635.705(a), Use of Official Time; and MLC, Chapter 8 Section B: Rules of Conduct and Appendix X, 3. Tardiness or Leaving the Workplace Early. **Substantiated.**

**a. Facts**

(1) 5 C.F.R. 2635.705(a) – Use of official time states that an employee shall use official time in an honest effort to perform official duties.

(2) Master Labor Contract, Chapter 8 – Conduct of Employees, paragraph 2 provides guidance regarding “Basic Principles” by providing that employees are required to perform their assigned duties and discharge their delegated responsibilities conscientiously and to conduct themselves in a manner both on and off the job which will reflect credit on the Governments of the US and Japan. MLC Chapter 8 Section B: Rules of Conduct paragraph 7 states that employees are required to obtain approval of any absence from duty. Any absence which is not approved or excused will be charged as absence without leave on the time and attendance report. MLC Appendix X, 3. Tardiness or Leaving the Workplace Early, states, in part, an unauthorized absence of less than one regularly scheduled work shift can be penalized by:

- (a) First offense: Official reprimand
- (b) Second offense: Official reprimand to Fine
- (c) Third offense: Fine to Suspension

(3) Refer to paragraph 4. a. (5) through (15) above,

**b. Analysis/Discussion/Conclusion.**

(1) (b) (6) didn't use his official time in accordance with 5 C.F.R. 2635.705(a). He conducted his personal business during work hours without proper leave authorization requests.

(2) MLC, Chapter 8, Conduct of Employees, states in its Section B, paragraph 7 that MLC employees are required to obtain approval of *any* absence from duty. (emphasis added) (b) (6) admitted to conducting personal business on official time without approval to be absent from his official duties. His actions violated the MLC.

(3) The allegation that (b) (6) misused his official time and absented himself from duty without authorization was corroborated by his own admissions as well as witness statements. Based on this evidence, the allegation that (b) (6) misused his official time and absent without authorization is **substantiated**.

**c. Recommendations.**

(1) Take appropriate administrative action to hold (b) (6) accountable for his misuse of official time and unauthorized absences.

(2) Provide the employees assigned to PRY232 training on time and attendance procedures.

**d. Disposition.** Forward to higher authority for appropriate administrative and/or corrective action.

**6. Third Allegation.** (b) (6) misused an official government cellphone, in violation of 5 C.F.R. 2635.704, Use of Government Property; and MLC, Chapter 8 - Conduct of Employees Section B: Rules of Conduct and Appendix X, 5. Misuse of Government Equipment.  
**Substantiated.**

**a. Facts**

(1) 5 C.F.R. 2635.704 – Use of Government Property states that employees have a duty to protect and conserve government property and refrain from using or allowing its use for purposes other than which is made available to the public or those authorized in accordance with law or regulation.

(2) Master Labor Contract, Chapter 8 – Conduct of Employees states that employees are required to perform their assigned duties and discharge their delegated responsibilities conscientiously, to conduct themselves in a manner both on and off the job which will reflect credit on themselves. Section B, Rules of Conduct, paragraph 12, Government Property, states that employees are expected to provide maximum protection to property issued for use in the performance of their duties and the use of such property is for officially authorized purposes only. MLC Appendix X, 5, Misuse of Government Equipment, mandates that improper use of government equipment as outlined in manufacturer's specifications, manufacturer's instructions, headquarters or local orders or instructions is penalized by:

- (a) First offense: Official reprimand to Suspension
- (b) Second offense: Fine to Suspension
- (c) Third offense: Suspension to Removal

(3) All PRY232 employees are authorized to use an official government cellphone.

(4) (b) (6) IT Specialist, Command Information Office, receives monthly telephone bills from Base Communication Service Yokosuka for NAVFAC Far East and PWD Yokosuka.



(5) (b) (6) stated that he sent the PRY2 monthly telephone bill to (b) (6) Administrative Specialist, from January to October 2015.

(6) (b) (6) stated that she worked at PRY2 from July 2010 to November 2015. She indicated that she was advised by FEAD Officer to verify all PRY2 government cellphones' outgoing call records and highlight numbers which were called at unusual times (e.g., night, weekends, holidays).

(7) (b) (6) Assistant Operations Officer (AOPS), stated that he worked as Facility Support Contract (FSC) Manager from June or July 2014 to November 2015. (b) (6) provided the following information:

(a) (b) (6) FEAD Officer, and (b) (6) review the monthly phone bills. (b) (6) stated that (b) (6) requested that he review (b) (6) cellphone bill because (b) (6) was higher than other MLC employees' phone bills.

(b) In an attempt to review (b) (6) cellphone usage, (b) (6) requested (b) (6) to sort all phone calls into official and non-official groups.

(c) (b) (6) told (b) (6) that he lost his personal cellphone and used his government cellphone to make personal calls.

(d) (b) (6) informed (b) (6) that he had to pay for all non-official calls made using the government cellphone. (b) (6) directed (b) (6) to contact Financial Management (FM) or (b) (6) about the payment procedure.

(e) (b) (6) said that he didn't receive money for payment of the bill from (b) (6) although (b) (6) told the investigator that he gave (b) (6) approximately 6,000 yen for the payment.

(8) (b) (6) stated that (b) (6) informed him that (b) (6) cellphone bill is very high and that all calls should be verified. (b) (6) stated when he talked to (b) (6) about the cellphone bill, (b) (6) stated that all cellphone calls he made were personal.

(9) (b) (6) replaced (b) (6) as Administrative Specialist in April 2015 and worked for two (2) FEAD Officers, (b) (6) from April to May 2015 and LCDR Paul Weyant from June to July 2015. She transferred to another position in August 2015.

(10) The investigator obtained (b) (6) e-mail correspondence. On 21 April 2015, (b) (6) per (b) (6) request, contacted (b) (6) Supervisory Accountant, regarding the process for non-official call payment. She was advised that the payment can be made only by US dollar at the FM office. (b) (6) then asked (b) (6) to collect payment from (b) (6) so she could bring it to the FM office.

(11) (b) (6) stated that she didn't collect money from (b) (6) or exchange his money from Japanese yen to US dollar for his payment.

(12) (b) (6) admitted making personal calls using his government issued cellphone because he cancelled his personal cellphone. He stated that (b) (6) advised him to pay for his personal calls.

(13) (b) (6) stated that he paid approximately 6,000 yen to (b) (6) for the phone bill. As indicated in paragraph 8(e) above, (b) (6) advised that he did not receive payment from (b) (6).

(14) (b) (6) stated that he received a warning once before from (b) (6) the former FSC Manager, for making personal calls using his government issued cellphone.

(15) (b) (6) the former Accounting Technician at Accounts Receivable, interpreted the payment procedure as follows; 1) the customer pays the bill at the FM office with US dollar, 2) FM issues a receipt, 3) FM deposits the money to the US Treasury account at the Community Bank, and 4) FM creates a collection voucher (DD 1131) and sends it to Defense Finance Accounting Service, Japan.

(16) (b) (6) provided copies of a transaction to the investigator. The related documents indicate that a bill for non-official calls from PRY2 was issued in the amount of \$61.51. Such bill was paid on 28 April 2015 as reflected on a receipt was issued by (b) (6) to PRY2. Out of the \$61.51 bill, (b) (6) charge was \$59.04. (b) (6) payment of \$59.04 matches with the record of February 2015.

(17) The annual record of the government cellphone (080-5001-3413) assigned to (b) (6) in 2015 is showed below:

2015	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
JPY	7,990	6,150	8,235	4,285	4,545	4,528	3,811	2,645	655	655	655	655
USD	\$76.83	\$59.04	\$79.02	\$41.16	\$37.65	\$37.34	\$31.44	\$20.77	\$5.3	\$6.75	\$6.75	\$6.75

(18) The investigator verified all records/calls for the government issued cellphone assigned to (b) (6). In 2015, (b) (6) government issued cellphone was used 1,352 times. The usage reflects 1,034 (78.48%) inappropriate, personal calls. Specifically, 374 phone calls were made between 1800 and 0700 and/or on weekends/holidays/leave/AWS dates and 660 personal text messages. The total cost of (b) (6) misuse is 40,681 yen (approximately \$373.63).

#### **b. Analysis/Discussion/Conclusion.**

(1) 5 C.F.R. 2635.704, Use of Government Property, states that employees have a duty to protect government property and shall not use such property or allow its use for other than authorized purposes. (b) (6) had been using his assigned government cellphone for personal use. His conduct violates this regulation.

(2) MLC, Chapter 8, Conduct of Employees, Section B, paragraph 12 states that MLC employees are required to use the government property for official purposes only and improper use can result in disciplinary action. (b) (6) use of the government cellphone for personal purposes violated the MLC.

(3) FM confirmed a payment in the amount of \$61.51 was made by (b) (6) on 28 April 2015 for unofficial calls.



(4) The allegation that (b) (6) misused his government issued cell phone is corroborated by (b) (6) admission and witness statements. Based on foregoing, the allegation that (b) (6) misused the government cell phone is **substantiated**.

**c. Recommendations.**

(1) Take appropriate administrative action to hold (b) (6) accountable for misuse of the Government cell phone.

(2) Supervisors in the chain of command should confirm their subordinates' government issued cellphones' monthly bill and conduct periodic briefings on how to use government-provided supplies so as to prevent misuse.

**d. Disposition.** Forward to higher authority for appropriate administrative or corrective action.

**7. Fourth Allegation.** (b) (6) on numerous occasions, misused his official time by leaving his office to conduct personal business during work hours, in violation of 5 C.F.R. 2635.705(a), Use of Official Time; and MLC Chapter 8 Section B: Rules of Conduct and Appendix X, 4. Tardiness or Leaving the Workplace Early. **Substantiated**.

**a. Facts**

(1) 5 C.F.R. 2635.705(a) – Use of Official Time states that an employee shall use official time in an honest effort to perform official duties.

(2) Master Labor Contract, Chapter 8 – Conduct of Employees, paragraph 2 provides guidance regarding “Basic Principles” by providing that employees are required to perform their assigned duties and discharge their delegated responsibilities conscientiously, to conduct themselves in a manner both on and off the job which will reflect credit on the Governments of the US and Japan. MLC Chapter 8 Section B: Rules of Conduct paragraph 7 states that employees are required to obtain approval of any absence from duty. Any absence which is not approved or excused will be charged as absence without leave on the time and attendance report. MLC Appendix X, 3. Tardiness or Leaving the Workplace Early states, in part, unauthorized absence of less than one regularly scheduled work shift can be penalized by:

- (a) First offense: Official reprimand
- (b) Second offense: Official reprimand to Suspension
- (c) Third Offense: Fine to Suspension

(3) (b) (6) Engineering Technician, works at Planning & Estimating Division (Code PRY111) Mechanic Division, Requirement Branch, Public Works Department (PWD) Yokosuka. PRY111 is located on the 3<sup>rd</sup> floor of bldg. 4302.

(4) (b) (6) Supervisory Engineering Technician, stated that he saw (b) (6) and (b) (6) leave their work place together in a GOV during their official work hours on a frequent basis (see paragraph 4, a, (9)). He also stated that (b) (6) and (b) (6) had no collaborative work scheduled.

(5) (b) (6) stated that (b) (6) takes half hour breaks during the day. He added he instructed his subordinates to limit their break times no more than 15 minutes per break.

(6) (b) (6) stated that he reported (b) (6) absence during work hours to his supervisor, (b) (6) PRY111 Section Head, and asked his advice how this problem should be handled.

(7) In regard to (b) (6) break, the following information was provided:

(a) (b) (6) Engineering Technician, stated that he sees (b) (6) frequently leave the office at 1000 or/and 1500 and not return to work for approximately 30 to 60 minutes. He submitted a memo which indicates that he witnessed (b) (6) depart and remain out of the office during the following times between 20 and 27 June 2016 to the investigator:

20 June 2016 from 1000 to 1030  
22 June 2016 from 1000 to 1036  
23 June 2016 from 1500 to 1536  
24 June 2016 from 1000 to 1032

(b) (6) stated he reported (b) (6) frequent absences during work hours to his supervisors, (b) (6) and (b) (6). He also stated that he witnessed (b) (6) advise (b) (6) to limit his break time to 15 minutes on many occasions.

(b) (6) Engineering Technician, (b) (6) coworker, stated that he sees (b) (6) take long breaks around 1000-1030 or 1500-1530.

(c) (b) (6) Supervisory Engineering Technician at PRY111 Electricity Division, stated that he hears (b) (6) says "I will take a break now" to (b) (6) twice a day, at 1000 and 1500. (b) (6) stated that he has seen (b) (6) leave with (b) (6) twice, but cannot recollect the date. (b) (6) said that he heard (b) (6) say "It's none of your business" when (b) (6) asked him what he was doing during break time.

(8) (b) (6) stated that (b) (6) reported the following to him: 1) (b) (6) starts taking a break at 1000 and 1500, claiming it is his right, and 2) he goes out with (b) (6)

(9) (b) (6) stated that he doesn't want to confront (b) (6) because he is afraid of him (Kawashima) and he is extremely argumentative. (b) (6) said that he hasn't reported (b) (6) to his supervisor, Mr. Mark Wentink, Requirements Branch Head. He stated that he plans to inform Mr. Wentink by e-mail and expects him to take an appropriate action against (b) (6) for his long breaks.

(10) Mr. Wentink stated that he has never been notified by (b) (6) regarding (b) (6) absences during work hours.

(11) (b) (6) stated that he and (b) (6) take breaks together. He also stated that he meets (b) (6) at the parking spot next to the bldg. 4364. He added that

they sometimes take breaks twice a day, once at 1000 and again at 1500 (see paragraph 4, a, (13)).

(12) (b) (6) stated that he was ordered by his senior friend, (b) (6) to get into the GOV with him to get a drink from the vending machine located near bldg. A-20. He added that he didn't know taking a GOV to purchase a drink was wrong. He stated that it is common practice for employees to use a GOV to travel to the vending machine at A-20.

(13) (b) (6) believed that he was authorized to take breaks at 1000 and 1500 on a daily basis.

(14) (b) (6) stated that he informs (b) (6) his supervisor, before he leaves for breaks. He added that he usually takes 15 minutes per break, but sometimes discusses work assignments with other employees which will increase the break time to 30 minutes. (b) (6) said that he was warned by (b) (6) about his long breaks only once and corrected his behavior after the warning.

(15) (b) (6) complained that (b) (6) says nothing to other employees who take frequent short smoking breaks during the day. He argued that the total duration of smoking breaks by other employees is longer than his break time.

(16) The investigator contacted (b) (6) Employees Relations Specialist, in Human Resources Office (HRO). (b) (6) confirmed that all MLC employees who work eight (8) hours a day are authorized to take a 45-minute lunch break and no other break time is regulated in the current MLC regulation. He also advised that it would be acknowledged if the break time is short, used for enhancing the employee's productivity and within the bounds of common sense. (b) (6) also said that the frequency and duration of break time is up to the division supervisor's discretion and the work relationship between employees and their supervisors.

#### **b. Analysis/Discussion/Conclusion.**

(1) (b) (6) has a record of not using his official time in accordance with 5 C.F.R. 2635.705(a). Specifically, (b) (6) takes breaks at 1000 and/or 1500 on a daily basis and he leaves with (b) (6) in a GOV. Several witnesses testified that (b) (6) takes approximately a half hour per break.

(2) Although there is no official rule established, the MLC states that any absence that is not approved or excused should be charged as absence without leave.

(3) Based on the above, the allegation that (b) (6) misused his official time by leaving his workplace during work hours on multiple occasions is substantiated.

(4) Although substantiated, two (2) supervisors' lack of supervising skill should be questioned. (b) (6) is obsessively monitoring (b) (6) break time, while he says nothing to other employees about their frequent smoke breaks. (b) (6) neglects his duty as a division head. He failed to advise (b) (6) or report (b) (6) unauthorized absences to Mr. Wentink, his supervisor. This issue should have been handled by the supervisors rather than filed as an isolated wrongdoing.

**c. Recommendation.**

(1) Take appropriate administrative action to hold (b) (6) accountable for his misuse of official time and unauthorized absences.

(2) MLC supervisors should receive training on time and attendance.

**d. Disposition.** Forward to higher authority for appropriate administrative or corrective action.

**8. Interviews and Documents**

**a. Interviews conducted.** All interviews conducted in person unless otherwise noted.

(1) (b) (6) (subject), Construction Representative, PRY232, PWD Yokosuka, MLC 1-5

(2) (b) (6) (witness), Quality Control Representative, PRY232, PWD Yokosuka, MLC 1-6

(3) (b) (6) (witness), Quality Control Representative, PRY232, PWD Yokosuka, MLC 1-6

(4) (b) (6) (witness), Quality Control Representative, PRY232, PWD Yokosuka, MLC 1-6

(5) (b) (6) (witness), Supervisory Quality Control Specialist, PRY232, PWD Yokosuka, MLC 1-7

(6) (b) (6) (witness), Construction Representative, PRY232, PWD Yokosuka, MLC 1-5

(7) (b) (6) (witness), Quality Control Representative, PRY232, PWD Yokosuka, MLC 1-6

(8) (b) (6) (witness), Quality Control Representative, PRY232, PWD Yokosuka, MLC 1-6

(9) (b) (6) (witness), Facility Management Facility Sustainment Branch Head, PRY23, GS-12

(10) (b) (6) (witness), Assistant Operations Officer, NAVFAC Far East

(11) (b) (6) (witness), the former Administrative Specialist at FEAD, PRY2, currently works as Management Analyst, BD2, NAVFAC Far East

(12) (b) (6) (witness), the former Administrative Specialist at FEAD, PRY2, currently works as Engineering Technician, PRY211, PWD Yokosuka

(13) (b) (6) (witness), Engineering Technician, Planning & Estimation Division, PRY111, PWD Yokosuka, MLC 1-6

(14) (b) (6) (witness), Engineering Technician, Planning & Estimation Division, PRY111, PWD Yokosuka, MLC 1-6

(15) (b) (6) (witness), Supervisory Engineering Technician, Planning & Estimation Division, PRY111, PWD Yokosuka, MLC 1-8

(16) (b) (6) (witness), Supervisory Engineering Technician, Planning & Estimation Division, PRY111, PWD Yokosuka, MLC 1-7

(17) (b) (6) (witness), Requirement Branch Head, PRY11, PWD Yokosuka, GS-13

(18) (b) (6) (subject), Engineering Technician, Planning & Estimation Division, PRY111, PWD Yokosuka, MLC 1-6

(19) (b) (6) Employees Relations Specialist, Human Resources Office Yokosuka, MLC 1-7 assigned to Commander Naval Region Japan (interviewed by phone).

(20) (b) (6) the former Accounting Technician at Financial Management in NAVFAC Far East, currently works as Engineering Technician, PRY32, PWD Yokosuka, MLC 1-5 (via e-mail)

(21) (b) (6) IT Specialist, Command Information Office, CIOR, NAVFAC Far East, MLC 1-7 (interviewed by phone)

**b. Documents reviewed.**

(1) NAVFAC Far East Hotline Complaint Form submitted of 29 April 2016.

(2) (b) (6) Personnel Action Record

(3) PRY232 Facility Management Facility Sustainment Branch Organization Chart

(4) PRY232 GOV mileage record

(5) (b) (6) government cellphone bill

(6) E-mail correspondence between (b) (6) and (b) (6)

(7) (b) (6) payment record for personal calls, transacted by Financial Management

(8) (b) (6) Personnel Action Record

(9) PRY111 Planning & Estimation Division Organization Chart

(10) DOD 4500.36 Management, Acquisition, and Use of Motor Vehicles

- (11) Master Labor Contract Chapter 8, Conduct of Employees
- (12) Master Labor Contract Chapter 8 Appendix X, 4, Failure in Duty
- (13) Master Labor Contract Chapter 8 Appendix X, 5, Misuse of Government Equipment
- (14) Joint Ethics Regulation (JER) § 2635.704 Misuse of Government Property
- (15) Joint Ethics Regulation (JER) § 2635.705 Use of Official Time
- (16) COMFLEACTINST 5800.2G, Vehicle Codes for Fleet Activities Yokosuka